

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

PREFERRED CHIROPRACTIC, LLC,)	
)	
Plaintiff,)	CIVIL ACTION CASE NO.:
)	_____
V.)	
)	
THE HANOVER INSURANCE)	
COMPANY,)	
)	
Defendant.)	

DEFENDANT'S NOTICE OF REMOVAL

COMES NOW The Hanover Insurance Company (“Hanover”), Defendant in the above-styled action, and pursuant to 28 U.S.C. §§ 1332, 1441, and 1446, and file this Notice of Removal of the above-styled action from the State Court of Gwinnett County, Georgia to the United States District Court for the Northern District of Georgia, Atlanta Division. In support thereof, Defendants show this Court as follows:

1.

Petitioner is a Defendant in a civil action brought against it in the State Court of Gwinnett County, Georgia, and styled *Preferred Chiropractic, LLC v. The Hanover Insurance Company*, Civil Action No. 23-C-03743-S7, now pending in

said court. A copy of all filings in the State Court of Gwinnett County, Georgia including the Summons and Complaint and Answer of Hanover are attached hereto, marked Exhibit "A", and made a part hereof.

2.

Said action was commenced by service of process consisting of said Summons and Complaint upon Hanover through its registered agent on June 7, 2023. This Petition is timely filed within thirty (30) days of such service in compliance with 28 U.S.C. § 1446(b)(1).

3.

There is diversity of citizenship among the parties. Plaintiff is a Georgia Domestic Limited Liability Company that upon information and belief is owned by Audra J. Moran, a Georgia resident. Thus, Plaintiff is a citizen of Georgia, who is domiciled in Georgia. Hanover is a foreign corporation, organized and existing under the laws of the State of New Hampshire, maintaining its principal office at 449 Lincoln Street, Worcester, Massachusetts 01653. Corporate filing information registered with the Georgia Secretary of State for both Plaintiff and Hanover are attached as Exhibit "B" and "C" respectively.

4.

As is set forth in in the PRAYER FOR RELIEF on the 5th page of the Complaint, Plaintiff claims it is entitled to \$141,391.39 in damages. Accordingly, the matter in controversy exceeds the sum or value of Seventy-Five Thousand Dollars (\$75,000), exclusive of interest and costs.

5.

In light of the foregoing, this is a civil action brought in the State Court for which this United States District Court has original jurisdiction due to diversity of citizenship, as well as the amount in controversy, under 28 U.S.C. § 1332. Therefore, this action may be removed to this Court pursuant to 28 U.S.C. § 1441.

6.

The Atlanta Division of the Northern District of Georgia embraces Gwinnett County, Georgia.

7.

Hanover has given written notice of the filing of the Notice of Removal to Plaintiff and to the Clerk of the State Court of Gwinnett County. A copy of the Notice of Removal is attached hereto as Exhibit “D”.

8.

Hanover has complied with all conditions precedent to removal.

WHEREFORE, Hanover prays that this petition be filed, and that said action be removed to and proceed in this Court, and that no further proceedings be had in said case in the State Court of Gwinnett County, Georgia.

Respectfully submitted this 29th day of June, 2023.

**SCRUDDER, BASS, QUILLIAN,
HORLOCK, LAZARUS & ADELE, LLP**

/s/ William W. Horlock, Jr.

William W. Horlock, Jr.
Georgia Bar No. 366980
Counsel for Defendant

900 Circle 75 Parkway, Suite 850
Atlanta, GA 30339
Telephone: (770) 612-9200
Facsimile: (770) 612-9201
bhorlock@scrudderbass.com

CERTIFICATE OF SERVICE¹

I HEREBY CERTIFY that I have this day served a copy of the within and foregoing **DEFENDANT'S NOTICE OF REMOVAL** upon all parties to this matter by depositing a true and correct copy of same via Statutory Electronic Mail and/or US Mail addressed to counsel of record as follows:

Ryan Baxter, Esq.
Baxter Law Firm, LLC
2400 Herodian Way, Suite 220
Smyrna, Georgia 30080
ryan@baxlegal.com

This 29th day of June, 2023.

/s/ William W. Horlock, Jr.

William W. Horlock, Jr.

¹ **LOCAL RULE 7.1(D) CERTIFICATION:** The undersigned counsel hereby certify that this document has been prepared in accordance with Local Rule 5.1(B) of the Northern District of Georgia.

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Preferred Chiropractic, LLC

(b) County of Residence of First Listed Plaintiff Fulton
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Ryan Baxter, Esq., Baxter Law Firm, LLC, 2400 Herodian Way, Suite 220, Smyrna, GA 30080, 678-813-1900

DEFENDANTS

The Hanover Insurance Company

County of Residence of First Listed Defendant

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

William W. Horlock, Jr., Scrudder Bass, 900 Circle 75 Parkway, Suite 850, Atlanta, GA 30339, 770-612-9200

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

1 U.S. Government Plaintiff 3 Federal Question (U.S. Government Not a Party)

2 U.S. Government Defendant 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

	PTF	DEF	PTF	DEF	
Citizen of This State	<input checked="" type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4
Citizen of Another State	<input type="checkbox"/> 2	<input checked="" type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input checked="" type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input checked="" type="checkbox"/> 110 Insurance	PERSONAL INJURY	PERSONAL INJURY	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881	<input type="checkbox"/> 375 False Claims Act
<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 365 Personal Injury - Product Liability	<input type="checkbox"/> 422 Appeal 28 USC 158	<input type="checkbox"/> 376 Qui Tam (31 USC 3729(a))
<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 367 Health Care/ Pharmaceutical Personal Injury Product Liability	<input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 400 State Reapportionment
<input type="checkbox"/> 140 Negotiable Instrument	<input type="checkbox"/> 320 Assault, Libel & Slander	<input type="checkbox"/> 368 Asbestos Personal Injury Product Liability	INTELLECTUAL PROPERTY RIGHTS	<input type="checkbox"/> 410 Antitrust
<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 330 Federal Employers' Liability	<input type="checkbox"/> 340 Marine	<input type="checkbox"/> 820 Copyrights	<input type="checkbox"/> 430 Banks and Banking
<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 345 Marine Product Liability	<input type="checkbox"/> 350 Motor Vehicle	<input type="checkbox"/> 830 Patent	<input type="checkbox"/> 450 Commerce
<input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans)	<input type="checkbox"/> 355 Motor Vehicle Product Liability	<input type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 835 Patent - Abbreviated New Drug Application	<input type="checkbox"/> 460 Deportation
<input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits	<input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<input type="checkbox"/> 370 Other Fraud	<input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations
<input type="checkbox"/> 160 Stockholders' Suits		<input type="checkbox"/> 371 Truth in Lending	<input type="checkbox"/> 880 Defend Trade Secrets Act of 2016	<input type="checkbox"/> 480 Consumer Credit (15 USC 1681 or 1692)
<input type="checkbox"/> 190 Other Contract		<input type="checkbox"/> 380 Other Personal Property Damage	SOCIAL SECURITY	<input type="checkbox"/> 485 Telephone Consumer Protection Act
<input type="checkbox"/> 195 Contract Product Liability		<input type="checkbox"/> 385 Property Damage	<input type="checkbox"/> 861 HIA (1395ff)	<input type="checkbox"/> 490 Cable/Sat TV
<input type="checkbox"/> 196 Franchise		<input type="checkbox"/> 392 Product Liability	<input type="checkbox"/> 862 Black Lung (923)	<input type="checkbox"/> 850 Securities/Commodities/ Exchange
			<input type="checkbox"/> 863 DIWC/DIWW (405(g))	<input type="checkbox"/> 890 Other Statutory Actions
			<input type="checkbox"/> 864 SSID Title XVI	<input type="checkbox"/> 891 Agricultural Acts
			<input type="checkbox"/> 865 RSI (405(g))	<input type="checkbox"/> 893 Environmental Matters
				<input type="checkbox"/> 895 Freedom of Information Act
				<input type="checkbox"/> 896 Arbitration
				<input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision
				<input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS		
<input type="checkbox"/> 210 Land Condemnation	<input type="checkbox"/> 440 Other Civil Rights	Habeas Corpus:	<input type="checkbox"/> 791 Employee Retirement Income Security Act	
<input type="checkbox"/> 220 Foreclosure	<input type="checkbox"/> 441 Voting	<input type="checkbox"/> 463 Alien Detainee		
<input type="checkbox"/> 230 Rent Lease & Ejectment	<input type="checkbox"/> 442 Employment	<input type="checkbox"/> 510 Motions to Vacate Sentence		
<input type="checkbox"/> 240 Torts to Land	<input type="checkbox"/> 443 Housing/ Accommodations	<input type="checkbox"/> 530 General		
<input type="checkbox"/> 245 Tort Product Liability	<input type="checkbox"/> 445 Amer. w/Disabilities - Employment	<input type="checkbox"/> 535 Death Penalty	IMMIGRATION	
<input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 446 Amer. w/Disabilities - Other	<input type="checkbox"/> 540 Mandamus & Other	<input type="checkbox"/> 462 Naturalization Application	
	<input type="checkbox"/> 448 Education	<input type="checkbox"/> 550 Civil Rights	<input type="checkbox"/> 465 Other Immigration Actions	
		<input type="checkbox"/> 555 Prison Condition		
		<input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement		

V. ORIGIN (Place an "X" in One Box Only)

1 Original Proceeding 2 Removed from State Court 3 Remanded from Appellate Court 4 Reinstated or Reopened 5 Transferred from Another District (specify) 6 Multidistrict Litigation - Transfer 8 Multidistrict Litigation - Direct File

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
28 U.S.C. §§ 1332, 1441, 1446

VI. CAUSE OF ACTION

Brief description of cause:
Plaintiff alleges fire damage as a result of a sudden and accidental incident which occurred on June 4, 2021.

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION
UNDER RULE 23, F.R.Cv.P.

DEMAND \$

141,391.39

CHECK YES only if demanded in complaint:
JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

June 28, 2023

/s/ William W. Horlock, Jr.

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

General Civil and Domestic Relations Case Filing Information Form

23-C-03743-S7

6/1/2023 1:13 PM

TIANA P. GARNER, CLERK

 Superior or State Court of Gwinnett State Court County

For Clerk Use Only

Date Filed _____
MM-DD-YYYY

Case Number 23-C-03743-S7

Plaintiff(s)

PREFERRED CHIROPRACTIC, LLC

Last	First	Middle I.	Suffix	Prefix

Defendant(s)

THE HANOVER INSURANCE COMPANY

Last	First	Middle I.	Suffix	Prefix

Plaintiff's Attorney Ryan Baxter

State Bar Number 588243

Self-Represented

Check one case type and one sub-type in the same box (if a sub-type applies):

General Civil Cases

- Automobile Tort
- Civil Appeal
- Contempt/Modification/Other
- Post-Judgment
- Contract
- Garnishment
- General Tort
- Habeas Corpus
- Injunction/Mandamus/Other Writ
- Landlord/Tenant
- Medical Malpractice Tort
- Product Liability Tort
- Real Property
- Restraining Petition
- Other General Civil

Domestic Relations Cases

- Adoption
- Contempt
- Non-payment of child support, medical support, or alimony
- Dissolution/Divorce/Separate
- Maintenance/Alimony
- Family Violence Petition
- Modification
- Custody/Parenting Time/Visitation
- Paternity/Legitimation
- Support – IV-D
- Support – Private (non-IV-D)
- Other Domestic Relations

 Check if the action is related to another action pending or previously pending in this court involving some or all of the same: parties, subject matter, or factual issues. If so, provide a case number for each.

Case Number _____

Case Number _____

 I hereby certify that the documents in this filing, including attachments and exhibits, satisfy the requirements for redaction of personal or confidential information in OCGA § 9-11-7.1. Is a foreign language or sign-language interpreter needed in this case? If so, provide the language(s) required.

Language(s) Required _____

 Do you or your client need any disability accommodations? If so, please describe the accommodation request.

IN THE STATE COURT OF GWINNETT COUNTY
STATE OF GEORGIA

PREFERRED CHIROPRACTIC, LLC)	
)	Civil Action No.
<i>Plaintiff,</i>)	
)	23-C-03743-S7
v.)	
)	
THE HANOVER INSURANCE COMPANY)	JURY TRIAL DEMANDED
)	
)	
<i>Defendant,</i>)	
)	

SUMMONS

TO: THE HANOVER INSURANCE COMPANY

You are hereby summoned and required to file with the Clerk of said court and serve upon the Plaintiff's Attorney, whose name and address is:

Ryan T. Baxter, Esq.
Baxter Law Firm, LLC
2400 Herodian Way Suite #220
Smyrna, GA 30080

an Answer to the Complaint which is herewith served upon you, within 30 days after service of this Summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the Complaint.

This 1ST day of June, 2023.

Tiana P. Garner

Clerk of State Court:



DEPUTY CLERK

**IN THE STATE COURT OF GWINNETT COUNTY
STATE OF GEORGIA**

PREFERRED CHIROPRACTIC, LLC)
) Civil Action No.
 Plaintiff,)
)
 v.) 23-C-03743-S7
)
 THE HANOVER INSURANCE COMPANY) JURY TRIAL DEMANDED
)
)
 Defendant,)
)

COMPLAINT

COMES NOW, PREFERRED CHIROPRACTIC, LLC ("Plaintiff") by and through its attorneys, Baxter Law Firm, and herein files its Complaint against THE HANOVER INSURANCE COMPANY ("Defendant") and upon personal knowledge and information and belief, allege and respectfully shows the Court the following:

PARTIES

1.

Plaintiff PREFERRED CHIROPRACTIC, LLC is the Plaintiff/policyholder who conducted business at 1874 Piedmont Ave NE. STE 101A. Atlanta GA 30324.

2.

Defendant THE HANOVER INSURANCE COMPANY is a Foreign Insurance Company whose registered agent in Georgia, CT Corporation System, is located at 289 S. Culver St., Lawrenceville, GA 30046, in Gwinnett County.

JURISDICTION AND VENUE

3.

Jurisdiction and Venue are proper in this Court because Defendant's registered agent is located in Gwinnett County, GA; Defendant may be served by and through its registered agent in Gwinnett County and because this Court has subject matter jurisdiction over this case.

FACTUAL BACKGROUND

4.

This matter began on June 4, 2021, when Plaintiff's business, sustained fire damage due to a sudden and accidental incident that caused fire damage to Plaintiff's business.

5.

Plaintiff hired/retained Large Loss Public Adjusters, LLC, to advocate on its behalf and assist the business with the insurance claim process.

6.

Defendant provided Claim number 19-00873767 as a reference to the Fire Claim.

7.

Plaintiff has complied with the policy's terms and conditions.

8.

Defendant hired Brian Dansby to evaluate the fire claim and provide a repair estimate.

9.

Throughout the claim process, Defendant mishandled the claim by delaying the claim process and piecemealed the claim by issuing partial payments. Defendant issued a total of fourteen checks.

10.

Furthermore, Defendant failed to address the fire and soot damage properly, which caused Plaintiff to relocate to a new location.

11.

Defendant's initial rebuild estimate was \$6,499.25. This amount was insufficient, and after a series of rebuttals, Defendant revised its rebuild estimate to \$20,629.79. The \$20,629.79 is still insufficient to restore the structure to resume business.

12.

Plaintiff faced a predicament; the longer Plaintiff was out of business due to the fire damage, the more clients it would lose. Plaintiff wanted to restore the structure as soon as possible to resume business; however, Defendant delayed the claim, did not pay enough, and did not address all items of damage properly to restore the property/structure.

13.

Plaintiff's Public Adjuster explained to Defendant the health hazard of soot; however, Defendant ignored the Public Adjuster's emails and warnings of the health hazard.

14.

Plaintiff hired a hygienist to evaluate the soot damage and the health hazard of the structure/property.

15.

Defendant ignored the hygienist's report, forcing the insured to relocate to a new facility. Furthermore, Defendant revoked the funds paid for the rebuild by offsetting those covered losses under other coverages.

16.

Defendant delayed this process and refused to pay the Dwelling-Rebuild portion of this claim; due to Defendant's delays, the insured had no choice but to relocate to a new facility and incur \$77,391.39 in costs.

17.

Defendant failed to pay the insured for January and February 2022 Business Income Loss which is covered under the applicable Policy of Insurance.

18.

Defendant has not afforded the proper coverage under the applicable policy. This lack of good faith has compelled Plaintiff to hire legal counsel and bring the instant lawsuit against Defendant.

COUNT I – BREACH OF CONTRACT

19.

Pursuant to the facts stated above, Defendant has breached its contract with Plaintiff by failing to fully compensate Plaintiff and Plaintiff's vendors in accordance with the policy.

20.

On October 10, 2022, Plaintiff, by and through her attorney, sent a demand letter to Defendant pursuant to §33-4-6; Defendant received the demand letter and provided an unsatisfactory "response."

21.

Plaintiff reserves the right to move to add parties herein. Plaintiff also reserves the right to amend her Complaint based on further investigation and discovery.

22.

By Defendant's actions and conduct as set forth above, Defendant has also acted in bad faith, been stubbornly litigious, and have caused Plaintiff unnecessary trouble and expense, entitling Plaintiff to recover its costs and expenses of litigation, including attorney's fees, pursuant to O.C.G.A. § 13-6-11 in an amount to be proven at trial.

PRAYER FOR RELIEF

Plaintiff respectfully requests that this honorable court award damages in the following amounts:

DWELLING - REBUILD:	\$77,391.39
BUSINESS INCOME LOSS:	\$64,000.00

Plaintiff also requests that pursuant to the facts stated above, as well as those facts which will be proven at trial, that this Court find that Defendant has acted in bad faith and impose a statutory penalty of 50% of the above-demanded amount pursuant to O.C.G.A. § 33-4-6; Plaintiff requests that Defendant be held liable to pay Plaintiff's costs and reasonable attorneys' fees, which are currently at \$7,350.00 plus filing fees. Plaintiff's counsel will submit an affidavit of attorney's fees at the Court's request.

Plaintiff also requests any further relief that this honorable Court deems just and proper. Plaintiff also demands a trial by jury.

Respectfully submitted this June 1, 2023

/s/Ryan Baxter
Ryan Baxter
Georgia Bar No. 588243
BAXTER LAW FIRM, LLC
2400 Herodian Way Suite #220
Smyrna, GA 30080
Telephone: (678) 813-1900
ryan@baxlegal.com
Attorney for Plaintiff

Sheriff Number: 23017797 Court Case Number: 23-C-03743-S7
 Date Received: 6/6/2023 Time: 2:46 PM
 Special Service Inst:

State of Georgia
 Gwinnett County

ATTORNEY'S ADDRESS

PREFERRED CHIROPRACTIC LLC
 PLAINTIFF
 VS.
 THE HANOVER INSURANCE COMPANY
 DEFENDANT

NAME AND ADDRESS OF PARTY TO BE SERVED

HANOVER INSURANCE CO
 289 SOUTH CULVER STREET
 C/O CT CORPORATION
 LAWRENCEVILLE, GA 30046

SHERIFF'S ENTRY OF SERVICE

PERSONAL Sex _____ Skin Color _____ Hair Color _____ Age _____ Hgt _____ Wgt _____
 I have this day served the defendant _____ personally with a copy of the within action and summons.

NOTORIOUS

I have this day served the defendant _____ by leaving a copy of the action and summons at his most notorious place in this County.

Delivered same into the hands of _____ described as follows:

SEX

SKIN COLOR

HAIR COLOR

AGE

HGT

WGT

CORPORATION

I have this day served the _____ a corporation by leaving a copy of the within action and summons with _____ in charge of the office and place of doing business of said Corporation in this County.

TACK AND MAIL

I have this day served the above styled affidavit and summons on the defendant(s) by posting a copy of the same to the door of the premises designated in said affidavit, and on the same day of such posting by depositing a true copy of same in the United States Mail, First Class in an envelope properly addressed to the defendant at the address shown in said summons, with adequate postage affixed thereon containing notice to the defendant(s) to answer said summons at the place stated in the summons.

NON EST

Diligent search made and defendant _____ not to be found in the jurisdiction of this Court.

SPECIAL PROCESS

COMMENTS

Date: 6/6/23

Time: _____

11. 6/6/23
 Deputy Sheriff

IN THE STATE COURT OF GWINNETT COUNTY
STATE OF GEORGIA

PREFERRED CHIROPRACTIC, LLC ,)
)
 Plaintiff,)
)
 v.) CIVIL ACTION NO.: 23-C-03743-S7
)
 THE HANOVER INSURANCE COMPANY)
)
)
)
 Defendant.)

ANSWER OF DEFENDANT THE HANOVER INSURANCE COMPANY

COMES NOW Defendant The Hanover Insurance Company (hereinafter, "Hanover" or "Defendant") and files its Answer to Plaintiff Preferred Chiropractic, LLC's Complaint, showing the Court as follows:

FIRST DEFENSE

Plaintiff's Complaint fails, in whole or in part, to state a claim against this Defendant upon which relief may be granted.

SECOND DEFENSE

Venue and jurisdiction are improper as to this Defendant.

THIRD DEFENSE

The penalties set forth in O.C.G.A. § 33-4-6 are Plaintiff's exclusive remedies for alleged bad faith, and therefore, to the extent Plaintiff's Complaint seeks extra-contractual damages not provided in O.C.G.A. § 33-4-6, Plaintiff's Complaint fails to state a cause of action and should be dismissed.

FOURTH DEFENSE

Plaintiff's allegations of bad faith failure to pay are without any basis in fact or law and are barred since Hanover did not refuse to pay based upon an unreasonable interpretation of the policy provisions as applied to the circumstances known, which represents a substantial legal basis for its payment and denial of Plaintiff's additional claim for damages, and therefore, Hanover's conduct was in good faith.

FIFTH DEFENSE

Pending further investigation and discovery, Hanover reserves the right to bring any and all affirmative defenses available to it under the Georgia Civil Practice Act and any applicable defenses under the laws of the State of Georgia.

SIXTH DEFENSE

This action is barred in whole, or in part by the doctrines of accord and satisfaction, estoppel, laches, payment and waiver.

In responding to the specifically numbered allegations of the Plaintiff's Complaint, Defendant responds as follows:

PARTIES

1.

Defendant is without knowledge or information sufficient to form a belief as to the truthfulness of the allegations contained in Paragraph 1 of Plaintiff's Complaint, and, accordingly, can neither admit nor deny the same.

2.

Defendant admits the allegations contained in Paragraph 2 of Plaintiff's Complaint.

JURISDICTION AND VENUE

3.

Defendant denies the allegations contained in Paragraph 3 of Plaintiff's Complaint.

FACTUAL BACKGROUND

4.

Defendant is without knowledge or information sufficient to form a belief as to the truthfulness of the allegations contained in Paragraph 4 of Plaintiff's Complaint, and, accordingly, can neither admit nor deny the same.

5.

Defendant is without knowledge or information sufficient to form a belief as to the truthfulness of the allegations contained in Paragraph 5 of Plaintiff's Complaint, and, accordingly, can neither admit nor deny the same.

6.

Defendant admits the allegations contained in Paragraph 6 of Plaintiff's Complaint.

7.

Defendant denies the allegations contained in Paragraph 7 of Plaintiff's Complaint.

8.

Defendant admits the allegations contained in Paragraph 8 of Plaintiff's Complaint.

9.

Defendant denies the allegations contained in Paragraph 9 of Plaintiff's Complaint.

10.

Defendant denies the allegations contained in Paragraph 10 of Plaintiff's Complaint.

11.

Defendant denies the allegations contained in Paragraph 11 of Plaintiff's Complaint.

12.

Defendant denies the allegations contained in Paragraph 12 of Plaintiff's Complaint.

13.

Defendant denies the allegations contained in Paragraph 13 of Plaintiff's Complaint.

14.

Defendant is without knowledge or information sufficient to form a belief as to the truthfulness of the allegations contained in Paragraph 14 of Plaintiff's Complaint, and, accordingly, can neither admit nor deny the same.

15.

Defendant denies the allegations contained in Paragraph 15 of Plaintiff's Complaint.

16.

Defendant denies the allegations contained in Paragraph 16 of Plaintiff's Complaint.

17.

Defendant denies the allegations contained in Paragraph 17 of Plaintiff's Complaint.

18.

Defendant denies the allegations contained in Paragraph 18 of Plaintiff's Complaint.

COUNT I – BREACH OF CONTRACT

19.

Defendant denies the allegations contained in Paragraph 19 of Plaintiff's Complaint.

20.

Defendant denies the allegations contained in Paragraph 20 of Plaintiff's Complaint.

21.

No answer is required in response to Paragraph 21 of Plaintiff's Complaint as it states a legal conclusion. To the extent a response may be required, Defendant denies the allegations contained in Paragraph 21.

22.

Defendant denies the allegations contained in Paragraph 22 of Plaintiff's Complaint.

PRAYER FOR RELIEF

23.

In response to Plaintiff's Prayer for Relief, Defendant denies Plaintiff is entitled to the alleged damages. In further answer, Defendant specifically denies that it acted in bad faith and denies that Plaintiff is entitled to statutory penalties pursuant to O.C.G.A. § 33-4-6. In further response, Defendant denies that it is liable to Plaintiff for costs and attorneys' fees.

24.

In response to Plaintiff's Complaint as a whole, Defendant specifically denies any allegations except those specifically admitted herein, including all allegations contained in the prayer for relief.

WHEREFORE, having fully responded to Plaintiff's Complaint, Defendant prays:

- (a) that its defenses be inquired into and that the same be sustained;
- (b) that it has judgment in its favor and against Plaintiff;
- (c) that all costs be taxed against Plaintiff;
- (d) that this Court enter such other and further relief as it deems just and proper under the circumstances;
- (e) that a pre-trial conference be held prior to the trial of the case;

- (f) that a pre-trial order be entered; and
- (g) that trial by jury of twelve be had.

This 29th day of June, 2023.

**SCRUDDER, BASS, QUILLIAN, HORLOCK,
LAZARUS & ADELE, LLP**

/s/ William W. Horlock, Jr. _____

William W. Horlock, Jr.
Georgia Bar No. 366980
Counsel for Defendant

900 Circle 75 Parkway, Suite 850
Atlanta, GA 30339
Telephone: (770) 612-9200
Facsimile: (770) 612-9201
bhorlock@scrudderbass.com

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this day served a copy of the within and foregoing **ANSWER OF DEFENDANT THE HANOVER INSURANCE COMPANY** upon all parties to this matter by depositing a true and correct copy of same via Statutory Electronic Service and/or US Mail addressed to counsel of record as follows:

Ryan Baxter, Esq.
Baxter Law Firm, LLC
2400 Herodian Way, Suite 220
Smyrna, Georgia 30080
ryan@baxlegal.com

This 29th day of June, 2023.

/s/ William W. Horlock, Jr.
William W. Horlock, Jr.



GEORGIA CORPORATIONS DIVISION

GEORGIA SECRETARY OF STATE

BRAD
RAFFENSPERGER[HOME \(/\)](#)

BUSINESS SEARCH

BUSINESS INFORMATION

THE HANOVERBusiness Name: **INSURANCE
COMPANY**Control Number: **H855110**Business Type: **Foreign Insurance
Company**Business Status: **Active/Compliance**Business Purpose: **NONE**Principal Office Address: **440 Lincoln Street,
Worcester, MA, 01653,
USA**Date of Formation /
Registration Date: **10/18/1938**Jurisdiction: **New Hampshire**Last Annual Registration
Year: **2023**

REGISTERED AGENT INFORMATION

Registered Agent Name: **C T CORPORATION SYSTEM**Physical Address: **289 S Culver St, Lawrenceville, GA, 30046-4805, USA**County: **Gwinnett**

OFFICER INFORMATION

Name	Title	Business Address
Charles F Cronin	Secretary	440 Lincoln Street, Worcester, MA, 01653, USA
Jeffrey Mark Farber	CFO	440 Lincoln Street, Worcester, MA, 01653, USA
John Connor Roche	CEO	440 Lincoln Street, Worcester, MA, 01653, USA

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GEORGIA CORPORATIONS DIVISION

GEORGIA SECRETARY OF STATE

BRAD
RAFFENSPERGER[HOME \(/\)](#)

BUSINESS SEARCH

BUSINESS INFORMATION

Business Name: **PREFERRED
CHIROPRACTIC, LLC**

Control Number: **0259200**

Business Type: **Domestic Limited
Liability Company**

Business Status: **Active/Compliance**

Business Purpose: **NONE**

Principal Office Address: **650 Hamilton Ave SE,
Suite C, ATLANTA, GA,
30312, USA**

Date of Formation /
Registration Date: **11/22/2002**

State of Formation: **Georgia**

Last Annual Registration
Year: **2023**

REGISTERED AGENT INFORMATION

Registered Agent Name: **Amanda Cain**

Physical Address: **650 Hamilton Ave SE, Suite C, Atlanta, GA, 30312, USA**

County: **Fulton**

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**IN THE STATE COURT OF GWINNETT COUNTY
STATE OF GEORGIA**

PREFERRED CHIROPRACTIC, LLC ,)
)
 Plaintiff,)
)
 v.) CIVIL ACTION NO.: 23-C-03743-S7
)
 THE HANOVER INSURANCE COMPANY)
)
)
 Defendant.)

**NOTICE TO ALL PARTIES AND COURT OF FILING OF NOTICE OF REMOVAL TO
FEDERAL COURT**

To:

Tiana P. Garner
Clerk, State Court of Gwinnett County
75 Langley Drive SW
Lawrenceville, GA 30046

Ryan Baxter, Esq.
Baxter Law Firm, LLC
2400 Herodian Way, Suite 220
Smyrna, Georgia 30080

You are hereby notified of the filing of a Notice of Removal to the United States District Court for the Northern District of Georgia, Atlanta Division, of the case Preferred Chiropractic, LLC v. The Hanover Insurance Company, Civil Action No. 23-C-03743-S7, in the State Court of Gwinnett County, in accordance with the provisions of Section 1331, Title 28 of the United States Code. Copies of said Notice filed are attached hereto.

This 29th day of June, 2023.

**SCRUDDER, BASS, QUILLIAN, HORLOCK,
LAZARUS & ADELE, LLP**

/s/ William W. Horlock, Jr. _____

William W. Horlock, Jr.
Georgia Bar No. 366980
Counsel for Defendant

900 Circle 75 Parkway, Suite 850
Atlanta, GA 30339
Telephone: (770) 612-9200
Facsimile: (770) 612-9201
bhorlock@scrudderbass.com

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this day served a copy of the within and foregoing **NOTICE OF FILING OF NOTICE OF REMOVAL TO FEDERAL COURT** upon all parties to this matter by depositing a true and correct copy of same via Statutory Electronic Service and/or U.S. Mail addressed to counsel of record as follows:

Ryan Baxter, Esq.
Baxter Law Firm, LLC
2400 Herodian Way, Suite 220
Smyrna, Georgia 30080
ryan@baxlegal.com

This 29th day of June, 2023.

/s/ William W. Horlock, Jr.
William W. Horlock, Jr.

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

PREFERRED CHIROPRACTIC, LLC,)
Plaintiff,) CIVIL ACTION CASE NO.:
v.) _____
THE HANOVER INSURANCE)
COMPANY,)
Defendant.)

**DEFENDANT'S CERTIFICATE OF INTERESTED PERSONS AND
CORPORATE DISCLOSURE STATEMENT**

1.

Pursuant to Local Rule 3.3, Defendant, by and through counsel, certifies that the following is a full and complete list of all parties in this action:

Plaintiff: Preferred Chiropractic, LLC

Defendant: The Hanover Insurance Company.

2.

The undersigned further certifies that the following is a full and complete list of all other persons, associations of persons, firms, partnerships, or corporations (including those related to a party as a subsidiary, conglomerate, affiliate, or parent

corporation) having either a financial interest in or interest which could be substantially affected by the outcome of this particular case:

Plaintiff: Preferred Chiropractic, LLC

Defendant: The Hanover Insurance Company is a wholly owned subsidiary of The Hanover Insurance Group, Inc. (a Delaware corporation). No publicly traded entity owns more than 10% of the outstanding shares of The Hanover Insurance Group, Inc.

3.

The undersigned further certifies that the following is a full and complete list of all persons serving as attorneys for the parties in this proceeding:

Counsel for Plaintiff: Ryan Baxter, Esq.
Baxter Law Firm, LLC
2400 Herodian Way, Suite 220
Smyrna, Georgia 30080

Counsel for Defendant: William W. Horlock, Jr., Esq.
Scrudder, Bass, Quillian, Horlock,
Lazarus & Adele, LLP
900 Circle 75 Parkway, Suite 850
Atlanta, GA 30339

Respectfully submitted this 29th day of June, 2023.

**SCRUDDER, BASS, QUILLIAN,
HORLOCK, LAZARUS & ADELE, LLP**

/s/ William W. Horlock, Jr.

William W. Horlock, Jr.
Georgia Bar No. 366980
Counsel for Defendant

900 Circle 75 Parkway, Suite 850
Atlanta, GA 30339
Telephone: (770) 612-9200
Facsimile: (770) 612-9201
bhorlock@scrudderbass.com

CERTIFICATE OF SERVICE¹

I HEREBY CERTIFY that I have this day served a copy of the within and foregoing **DEFENDANT'S CERTIFICATE OF INTERESTED PERSONS AND CORPORATE DISCLOSURE STATEMENT** upon all parties to this matter by depositing a true and correct copy of same via Statutory Electronic Service and/or US Mail addressed to counsel of record as follows:

Ryan Baxter, Esq.
Baxter Law Firm, LLC
2400 Herodian Way, Suite 220
Smyrna, Georgia 30080
ryan@baxlegal.com

This 29th day of June, 2023.

/s/ William W. Horlock, Jr.

William W. Horlock, Jr.

¹ **LOCAL RULE 7.1(D) CERTIFICATION:** The undersigned counsel hereby certify that this document has been prepared in accordance with Local Rule 5.1(B) of the Northern District of Georgia.